

FRONT LINE

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Inmate lawsuits down, collections up

AG's Office cuts filings, saves state millions



\$8.5 M
NEW LITIGATION
strategies in the AG's Office have cut pending inmate lawsuits by half and have resulted in a savings of \$8.5 million since 1993 when **Jay Nixon** became attorney general.

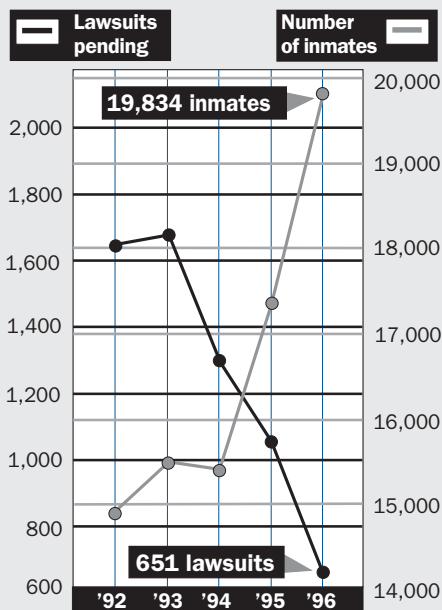
The reduced filings and savings are the result of changes in state law and a policy decision to use state attorneys rather than outside counsel to defend the state against frivolous inmate lawsuits, Nixon said.

"Missouri is bucking the national trend by reducing the number of frivolous cases at the same time the inmate population nationally is rising dramatically," he said.

Nixon has initiated a uniform policy of aggressively litigating each case; filing motions that require inmates to respond; filing for case dismissal when they don't respond; and working with corrections officers to secure thorough investigations

Inmate lawsuits vs. inmate population

New strategies by the AG's Office have greatly reduced the number of pending inmate lawsuits although the inmate population has increased since 1992.



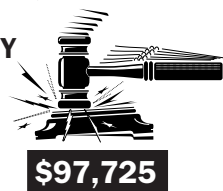
Millionaire murderer pays for stay

THE ATTORNEY GENERAL

obtained a judgment ordering an inmate who won a \$4.3 million lawsuit in 1986 but who is serving a life sentence for murder to reimburse the state nearly \$98,000 for his prison stay.

Darryl Gilyard receives a yearly payment from a lawsuit he won after his legs were crushed when a truck hit the garbage truck on which he was riding in 1984. His legs later were amputated. In 1988, Gilyard killed a friend.

The Incarceration Reimbursement Act lets the state recover up to 90 percent of an inmate's assets after any obligations to a spouse or child are met.



20 charged, arrested in filing of lien

THE AG'S OFFICE charged 17 people in Missouri and three in Illinois with threatening a judge by filing a "common-law court" lien against the judge.

In mid-June, the Highway Patrol arrested those charged. The crime of tampering with a judicial official is

punishable by up to seven years in prison and a fine of up to \$5,000.

Nixon said the 20 had taken part in filing a phony lien on the property of a Lincoln County judge who presided over a traffic charge against the daughter of one of those charged.

The accused are part of a group that

rejects government authority.

Similar liens were filed against the Lincoln County prosecutor and a patrol officer. Those liens were dismissed in earlier court action by the AG's Office.

Bogus liens also were removed against three officials in Boone County after the AG's Office took action.



LEGISLATIVE UPDATE

State legislators passed several measures that, if signed by the governor, will affect law enforcement officials.

HOUSE BILLS

DRIVERS LICENSE POINT ASSESSMENT (SHB 773)

- Requires points to be assessed against a drivers license on the date of conviction and prevents a case file from being closed until the conviction record is sent to the Department of Revenue.
- Prohibits the DOR from releasing the address of or other information about a parole officer.

SCHOOL BUS OPERATORS, HEAD START BUSES

(CCS/SCS/HCS/HB 895/986)

- Allows drivers older than 70 to operate school buses if they annually renew their permits and pass annual medical, written and vehicle operation tests.
- Increases the qualifications for bus operator permits with

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*Tougher restrictions***New law provides Missourians more protection against criminally insane**

A NEW LAW signed by the governor will protect victims of persons found not guilty by reason of insanity by placing tougher restrictions on the ability of the criminally insane to be returned to society without supervision and by giving these victims the same rights extended to all other crime victims.

The McBride bill, which includes proposals from Attorney General **Jay Nixon**, will:

- Grant the power to order or deny a conditional release of a dangerous offender to the court where the case first was tried or the plea of NGRI accepted.
- Extend the time for conditional or unconditional release applications from semi-annually to annually.
- Extend the constitutional rights granted to crime victims to those who are victims of crimes committed by the criminally insane.
- Keep all NGRI patients in secure facilities until court grants a release.
- Requires a violent offender found NGRI to be kept in a secured facility.
- Allow any party objecting to release

of the committed person to file written objections within 30 days of receiving notice.

- Place the burden of persuasion for the conditional or unconditional release on the person seeking release, and requires him to prove by clear and convincing evidence that he does not have or is not likely to have in the reasonable future a mental disease or defect making him dangerous.
- Allow the court ordering the release subsequently to order the arrest of the person for violating terms of the release and, if necessary, to order the person returned to custody of the court or a mental health facility.
- Allow law enforcement authorities to obtain limited information about a committed person.
- Make information about the release of offenders, including trial release by a court of mental health patients, available to victims.
- Give the rights of notice and input to victims of first-degree murder, voluntary manslaughter and second-degree burglary and of attempts of these crimes.



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respect to criminal violations.

■ Allows the Highway Patrol to obtain FBI information to aid in checking criminal records, but requires the record check to be made and cleared within five days, not the current 30 days.

(The governor vetoed this bill. Similar language contained in HB 1301.)

PREDATORY SEX OFFENDERS (CCS/SS/SCS/HB 974)

■ Provides for a sentence of life with eligibility for parole for offenders found by the court to be "predatory sex offenders." Persons affected include those convicted of forcible or statutory rape, forcible or statutory sodomy, or Class B felony child molestation or child abuse. To be classified a predatory sex offender, a person would have to have been convicted previously of one of the sex offenses; have committed an act violating one of the offenses; or have committed an act violating one of the offenses against a victim.

■ Provides for enhanced minimum sentencing and prohibits probation for predatory offenders.

■ Requires the court to place an individual convicted of Class B felony child abuse in the Sexual Offender Assessment Unit of the Department of Corrections.

■ Broadens the term "sexual assault" to include statutory rape, statutory sodomy and child molestation. Requires the Department of Public Safety to promulgate rules making registration information about sexual predators available to the public.

PEACE OFFICERS MEMORIAL DAY (HB 1168)

Establishes May 15 as Peace Officers Memorial Day in Missouri. Requires the U.S. and state flags to be flown at half-mast on May 15 to commemorate federal, state, county and municipal peace officers killed or disabled while on duty.

ZERO TOLERANCE (CCS/SCS/HS/HCS/HBs 1169 and 1271)

■ Requires first-time DWI offenses to be reported to the Highway Patrol and increases the number of points assessed by the Department of Revenue for excessive blood alcohol convictions.

■ Requires any person under age 21 driving with at least a .02 percent BAC to have his license suspended or revoked.

■ Requires certain drivers who have had their licenses suspended or revoked as a result of intoxication-related offenses to complete successfully a substance abuse traffic offender program.

■ Removes the June 30, 1996, termination date on the authority of the patrol to administer a chemical test to any person suspected of DWI or driving with excessive BAC.

■ Amends the law to provide that an arrest for DWI or driving with excessive BAC is lawful without a warrant if made within 90 minutes of the occurrence of the claimed violation except where a person has left the accident scene or has been removed for medical treatment.

(This act is identical to CCS/HCS/SS/SB 722.)

SAFE SCHOOLS

(CCS/SCS/HS/HCS/HBs 1301 and 1298)

■ Requires school administrators to report to law enforcement agencies acts that, if committed by an adult, would be felonies.

■ Requires the principal to report immediately any first-, second- or third-degree assault, sexual assault, or deviate sexual assault committed against a student or employee, and any possession of drugs or weapons by a student. Willful failure to comply is a Class A misdemeanor.

■ Prohibits enrollment of any student convicted or charged with first- or second-degree murder; Class A felony kidnapping; forcible rape or sodomy; first-degree assault, robbery or arson; or distribution of drugs to a minor, unless the student is acquitted or found not guilty.

■ Expands the area in which "distribution of a controlled substance near schools" may occur. The area is expanded to a 2,000-foot radius and on school buses.

■ Provides felony classification for making false bomb threats, committing "assault while on school property," and possessing ephedrine or its derivatives. With certain educational-purpose exceptions, requires schools to provide for a one-year suspension or expulsion for any student who brings a weapon to school in violation of the school's discipline policy.

■ Authorizes a school board to remove a student immediately upon a finding by a principal, superintendent or the board that the student

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poses a threat to himself or others, based on prior conduct.

- Allows civil and criminal penalties to be imposed on parents or guardians filing false information when registering a child at a new school.
- Allows a school to obtain from a student's previous school all academic and disciplinary records.
- Prohibits releasing personally identifiable information to any other governmental entity or to any person not employed by the school, another school district, or a juvenile or family court without a subpoena or written permission of the student (if older than 18) or his parent or guardian.
- Requires the state Board of Education to adopt a policy allowing for the expungement of disciplinary records of students who have graduated or are at least 21.
- Prohibits school boards from expunging records relating to certain felonies unless the charge is dismissed or the student is found not guilty.
- Requires the Elementary and Secondary Education Department to implement instructional programs about violence prevention and the negative consequences of criminal gang activity for all grade levels.

MISUSE OF 911

(SCS/HB 1304)

In Greene County, establishes the crime of "misuse of emergency telephone service" as a Class B misdemeanor where an individual

repeatedly (more than three times in one month) calls 911 for nonemergency situations or purposely reports false emergencies.

DRIVERS LICENSE INFORMATION (HB 1315)

Requires every drivers license issued after Nov. 1, 1996, to list the county of the driver's residence or a code number indicating the county.

EMERGENCY VEHICLE CLASSIFICATIONS (SCS/HB 1369)

Requires motor vehicles operated by the state Water Patrol and park rangers to be classified as emergency vehicles.

SENATE BILLS

REGULATION OF PROFESSIONAL FIGHTS (SCS/SB 524)

- Authorizes the Office of Athletics in the Department of Economic Development, Division of Professional Registration, to regulate professional boxing, full-contact karate, kickboxing, and wrestling and sparring contests, including instituting mandatory medical suspension and medical retirement.
- Allows the Athletics Office to prohibit "ultimate fighting" and "combative fighting" contests.
- Requires all amateur boxing, kickboxing, wrestling and full-contact karate contests to be sanctioned by a nationally recognized amateur sanctioning body approved by the Economic Development Department.

TOWING

(CCS/HS/HCS/SS/SB 560)

- Permits the Highway Department to immediately remove abandoned vehicles from roads and to tow vehicles from public rights-of-way after 10 hours in urban areas and after 48 hours in rural areas.
- Requires other governmental agencies to report tows to the Highway Patrol within one hour.
- Requires any person or agency authorizing a tow to notify the car owner, if known, within five days.
- Requires law enforcement authorities to make criminal record checks on every towed vehicle and to submit expanded crime inquiry reports and inspection reports to the Revenue Department within 10 working days.
- Requires landowners and lessees to give prior notification to police unless a 17-by-22-inch sign on the property indicates vehicles will be towed and states the maximum charges.
- Requires such landowners to file abandoned-property reports with police within one hour after any tow without police authority, and requires towing companies to report to police within one hour any private tow authorized by a landowner.
- Requires lien holders repossessing a vehicle by towing to notify the patrol within one hour.
- Permits the Revenue Department to design a uniform "authorization to tow" form for use by law enforcement.

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Appeals court rules lawful prescription no defense for DWI

A STATE APPEALS court upheld the DWI conviction of a woman "intoxicated" by a prescription drug who was involved in an accident.

She appeared disoriented when police arrived and failed two field sobriety tests. However, she tested negative on a breathalyzer reading and passed a horizontal gaze nystagmus test.

She also admitted taking a mild tranquilizer in the same

family as Valium, which was detected in a blood test.

Section 577.010, RSMo, prohibits a person from driving while intoxicated from alcohol or drugs, even for lawful prescriptions.

The court found there was sufficient evidence, including the accident, lab results and the officer's observations, to find the defendant guilty of DWI.

AG's Opinion

Officers limited when carrying concealed weapons

OFFICERS MAY CARRY concealed weapons within their jurisdiction, but may not carry them outside their jurisdiction unless they are on official police business, according to Attorney General's Opinion No. 89-96, issued Feb. 5.

Section 571.030, RSMo, makes it a crime for anyone but officers in Missouri to carry a concealed weapon (this is no statutory provision for out-of-state officers, even if on official business).

The opinion was issued to clarify whether the exception applied statewide and whether an officer could carry a concealed weapon outside his jurisdiction.



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PATROL ISSUES (SB 578)

- Provides that Highway Patrol workers hired in conjunction with the state Gaming Commission or federal community policing not be subject to personnel limits.
- States that the Department of Public Safety shall develop and establish a DNA profiling system.

OVERSIZE FARM LOADS (SB 677)

Allows special permits for moving oversize loads of farm products between sunset and sunrise.

PRISONER COSTS (SB 781)

Increases the per diem prisoner costs that a county may charge the state from \$20 per day per prisoner to \$37.50 per day per prisoner, subject to appropriations. Would take effect July 1, 1997.

COMMERCIAL MOTOR VEHICLES (SB 792)

- Exempts commercial motor vehicle licenses for 12,001 to 36,000 pounds from the requirement to display information on a vehicle's side. Lighter trucks currently are exempted.
- Requires that no commercial vehicle would have to display the number issued by the Transportation Division.

PRIOR, PERSISTENT DRUG OFFENDERS (SB 830)

Clarifies that only drug offenders who have been convicted of drug crimes punishable as Class B felonies are subject to Class A felony punishments if found to be prior or persistent offenders.

FRESH PURSUIT (SB 850)

Expands an out-of-state peace officer's fresh pursuit powers into

Missouri to cases in which the officer believes someone is driving while intoxicated or driving with excessive BAC. Under current law, the officer must believe the person is committing a felony to exercise fresh pursuit powers. DWI and driving with excessive BAC are misdemeanors.

POSSESSION OF EPHEDRINE (SB 929)

- Makes it a Class A misdemeanor to possess ephedrine or its derivatives with the intent to manufacture methamphetamine.
- Makes it a Class A misdemeanor to market, sell, distribute, advertise or label any drug product containing ephedrine for indication of stimulation, mental alertness, weight loss, appetite control, energy or other indications not approved by federal authorities.

Sedalia sting clears 57 warrants

A THREE-COUNTY sting operation led by Attorney General **Jay Nixon** and Pettis County Sheriff **Gary Starke** netted 52 people and \$133,705 in bail money posted. Operation Lam Scam targeted individuals sought by sheriffs in Pettis, Saline and Johnson counties on charges including stealing, drug possession and non-support. Johnson County Sheriff **Glenn Seymour** and Saline County Sheriff **Wally George** assisted with the operation, which cleared 57 warrants, 24 for felony charges. A letter was sent from the fake Missouri Department of Consumer Services, informing fugitives they were eligible for cash awards as the result of a class-action consumer lawsuit brought by the AG's Office. The fugitives were asked to set up appointments to collect their checks.

A temporary claims office was set up in Sedalia with undercover officers staffing the reception area. Deputies waited in a back room, ready to arrest, book and jail fugitives. "This operation sends a clear message to fugitives that there are consequences to their actions and provides an opportunity for the AG's Office to assist local officials in the fight against crime," Nixon said.

This was the fifth sting conducted by the attorney general and sheriffs. To date, 836 warrants have been cleared. Similar operations were conducted in Jefferson, Clay, Jasper and Cape Girardeau/Scott counties.

OPERATION LAM SCAM



AGO in benefit game The AG's basketball team got pulled over by the Highway Patrol recruits in a benefit game for a patrolman killed in a high-speed chase. The score was AGO 65, Recruits 81. The AG's Office raised \$430 for the family of Sgt. Randy Sullivan, killed in February while on duty.

Nixon hosts summit AG Jay Nixon co-hosted a summit on America's violent society in California. It was sponsored by the National Association of Attorneys General, of which Nixon is vice chair of the criminal law committee. Participants and attendees explored the problem and looked at successful intervention and prevention programs.

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